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SUBJECT: Peru: 2005 ATPDEA Eligibility Report

REF: State 18743

¶1. The following is Post's submission of Peru's 2005 ATPDEA Eligibility Report, as requested in reftel.

Effect of the ATPA/ATPDEA

¶2. The growing importance of the U.S. market for Peruvian exporters is reflected by the fact that the U.S. share of Peru's total exports has almost doubled from about 16.1 percent in 1994 to 29 percent in 2004. Peru became eligible for preferential trade benefits under Andean Trade Promotion Act (ATPA) in August 1993 and received renewed and expanded benefits under ATPDEA in October 2002. Exports under ATPA, and now the Andean Trade Promotion and Drug Eradication Act (ATPDEA), have since gained an increasingly important role in Peru's economy, as exporters have discovered that the ATPA as amended offers greater advantages than benefits offered under the Generalized System of Preferences (GSP). Of the $3.7 billion of goods that Peru exported to the United States in 2004, $1,603 million worth of goods entered the United States under ATPA. Between 1997 and 2004, exports from Peru accounted for 28 percent of all exports under ATPA.

¶3. Under original ATPA benefits, four products (copper, asparagus, jewelry and zinc) of the roughly 5,500 covered items represented more than 90 percent of the value of ATPA exports from Peru. In 2004, the United States imported copper valued at $458 million and asparagus valued at $112 million. Under the ATPDEA, large increases have taken place in a wide range of non-traditional exports such as apparel, jewelry and various agricultural products. The Government of Peru original estimates that Peruvian exports to the United States would increase by over 13 percent per year through 2006 (driven by annual gains of more than 17 percent for non-traditional exports), have proven conservative since exports under the ATPA-ATPDEA Program more than tripled in 2003 and rose an additional 25 percent in 2004. This momentum has propelled total Peruvian export increase to the United States of 24 percent in 2003 and 53 percent in 2004.

¶4. Peru's textile and apparel sector, a key job-provider, anticipates continued substantial growth as a result of new ATPDEA benefits. Prior to the ATPDEA, Peru's apparel exports entered the United States with tariffs averaging about 21 percent. With largely duty-free treatment under the ATPDEA, the National Society of Industries (SNI) estimates that apparel exports to the United States from Peru could increase from $400 million in 2002 to $2 billion in 2006. The Government of Peru estimated that exports of products made with local alpaca fiber, included under the ATPDEA, grew by 25 percent in 2004. Industry and government sources consider that the textile and apparel industry could generate up to 200,000 new jobs (including in cotton cultivation) in Peru through 2006 (compared with 270,000 in 2004). Due to the high rate of unemployment and underemployment, job creation is vital to economic development in Peru.

¶5. Increased cotton cultivation in support of Peru's apparel industry could serve as a new valuable alternative to illicit coca growing. During the first ten years of the ATPA, asparagus exports were the most significant direct alternative development benefit of the program. The asparagus producers estimate that 60,000 people worked directly in 2004 in asparagus cultivation and processing.

Expropriations

¶6. According to Peru's Constitution, the Government can only expropriate private property on public interest (such as for public works projects) or national security grounds. Any expropriation requires the passage of a specific act of the Congress. The Government of Peru has expressed its intention to comply with international standards concerning expropriations. Adequate payment to owners of agricultural lands expropriated by the Peruvian Government in the late-1960s and early-1970s is still at issue. The Government of

Peru has committed to the U.S. Government to resolve expeditiously one such claim involving an American company.

Arbitral Awards

¶7. Peru accepts binding international arbitration of investment disputes between foreign investors and the state, in accordance with national legislation or international treaties signed by the Government. A law permitting international arbitration of disputes between foreign investors and the Government or state-controlled firms was issued by decree during December 1992, and such recourse to arbitration was provided for in the 1993 Constitution. Although Peru theoretically accepts binding arbitration, on several occasions parastatal companies disregarded unfavorable judgments. Instead, they turned these arbitration cases over to the judiciary, where they were bureaucratically delayed until the company conceded the case. Peru is a party to the 1958 New York Convention on Recognition and Enforcement of Foreign Arbitral Awards.

¶8. Peru's adherence to ICSID (International Conference on Settlement of Investment Disputes) has improved the Government's ability to conclude bilateral investment agreements. Disputes between foreign investors and the state regarding pre-existing contracts must still be submitted to national courts. However, investors who conclude a juridical stability agreement for new investment are permitted to submit contract disputes with the Government to national or international arbitration by common agreement.

¶9. Several private organizations, including the American Chamber of Commerce and the Lima Chamber of Commerce, operate private arbitration centers. The quality of these centers varies, however, and investors should choose a venue for arbitration carefully. In one 2001 case involving the Lima Chamber of Commerce's arbitration center, a U.S. investor discovered irregularities in the way the case had been handled by the center.

¶10. The Peruvian government committed to resolve a number of commercial disputes as a condition of the U.S granting trade benefits under the ATPDEA in 2002. In April 2004, the Peruvian government provided USTR with "roadmaps" for the resolution of several of these investment disputes. As of December 2004, seven ATPDEA commercial disputes remain, of which two are in arbitration.

Reverse Preferences

¶11. The U.S. Government has no indication that Peru has granted such preferences to the products of a developed nation. Furthermore, Peru is a member of the World Trade Organization (WTO) and, accordingly, is bound by the most-favored-nation provisions in the WTO Agreements.

Intellectual Property

¶12. Protection of intellectual property rights (IPR) in Peru has improved significantly over the past decade, but still falls short of U.S. and international standards in several areas. After two years on the U.S. Government's "Priority Watch List" under the Special 301 provisions of the 1988 Trade Act, Peru was moved to the "Watch List" in 2001 in recognition of progress on copyright issues. In 2003 and 2004, Peru remained on the Watch List due to concerns about the adequacy of Peru's enforcement of its IPR laws, particularly with respect to the relatively weak penalties that have been imposed on IPR violators. Although the Peruvian government in July 2004 increased the minimum penalty for piracy to four-year's imprisonment, there have yet to be any convictions under the new law. Other factors contributing to continued placement on the "Watch List" include Peru's revocation of second-use patent protection for pharmaceuticals and a lack of protection for confidential test data that is submitted for the marketing

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approval of pharmaceutical and agrochemical products.

¶13. Peru belongs to the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO). It is also a signatory to the Paris Convention, Bern Convention, Rome Convention, Phonograms Convention, Satellites Convention, Universal Copyright Convention and the Film Register Treaty. In December 2001, the Public Ministry created the first office of a special prosecutor for the enforcement of IPR. This move has increased the efficiency and number of IPR enforcement actions. In August 2002, the Interior Ministry entered into an agreement with the IPR administrative agency, INDECOPI, to facilitate greater interagency cooperation on IPR enforcement actions,

including police raids. Nevertheless, concerns remain about the adequacy of IPR law enforcement, particularly with respect to the relatively weak penalties that have been imposed on IPR violators by the criminal justice courts.

Copyrights

¶14. Peru's 1996 Copyright Law is generally consistent with the TRIPS Agreement. However, sound recordings, textbooks, books on technical subjects, motion picture videos and software are widely pirated. While the government, in coordination with the private sector, has conducted numerous raids over the last few years on large-scale distributors and users of pirated goods and has increased other types of enforcement, piracy continues to be a significant problem for legitimate owners of copyrights. Peru signed the WIPO Copyright Treaty in July 2001 and the Performances and Phonograms Treaty in February 2002. Progress is being made on the government's legalization of computer software; the Government of Peru published a decree in February 2003, requiring all government entities to use legal software and establish effective controls to ensure such legal use between now and March 31, 2005.

Patents and Trademarks

¶15. Peru's 1996 Industrial Property Rights Law provides the framework for effective protection for patents and moves Peru closer to conformity with international obligations. In 1997, based on an agreement reached with the U.S. Government, Peru resolved several inconsistencies with the TRIPS Agreement provisions on patent protection and most-favored nation treatment for patents. However, U.S. companies continue to have concerns about Peru's protection of patents, as counterfeiting of trademarks and imports of pirated merchandise remain widespread.

¶16. U.S. drug manufacturers are concerned that Peru does not provide sufficient protection for data submitted to regulatory authorities in connection with marketing approval for pharmaceutical products. The Government of Peru does not provide for a fixed period of data exclusivity for pharmaceutical producers. Peru's health regulatory agency provides sanitary registrations to copies of innovative pharmaceutical products despite WTO TRIPS Article 39.3, which requires governments to prohibit the "unfair commercial use" of confidential test data. Peru also does not provide adequate patent protection to "second-use" innovations. The U.S. Government believes that qualifying "second use" inventions are entitled to patent protection under international obligations.

Extradition

¶17. A new extradition treaty entered into force in August, ¶2004. It specifies a list of extraditable offenses and permits the extradition of nationals.

Workers' Rights

¶18. The Constitution and the law provide for the right of association. About five percent of the formal sector workforce of 5 million belongs to organized labor unions. Peru's 2004 total workforce totaled 13 million. Approximately 8.3 million (62 percent) work in the informal sector, with 5 million workers employed in the formal sector. About 91 percent of the economically active population has some kind of employment, but 57 percent work less than 35 hours a week or earn less than the minimum household consumption basket.

¶19. Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation or geographic territory. Workers are not required to seek authorization prior to forming a trade union, nor may employers legally condition employment on union membership or non-membership.

¶20. In the past, labor advocates asserted that laws promulgated by the Fujimori administration in the 1990's, as well as provisions in the 1993 Constitution, failed to protect the rights of workers to form unions and bargain collectively. In January 2003, President Toledo signed into law legislation that addresses some of the International Labor Organization's (ILO) primary objections to the Peruvian labor code. The 2003 labor law includes provisions to allow apprentices to join unions, reduces to 20 the number of individuals required to form a union, recognizes the right to strike and allows for collective bargaining by sector.

¶21. In recent years, the ILO criticized a provision that

permitted businesses to employ up to 30 percent of their workers between the ages of 16 to 25 in apprenticeship-type jobs; workers in this age bracket were precluded from union membership and participation. To address this complaint, a 2001 law reduced this number to 10 percent, and the 2003 labor reforms allow apprentices to join unions and participate in union activities.

¶22. The 2003 labor reforms remedied some of the ILO's long-standing concerns over Peruvian law in the areas of collective bargaining and the right to strike. The new law allows unions to bargain collectively at both the firm and sector levels, and removes a 1992 requirement that a majority of workers in an enterprise, regardless of union membership, must vote in favor of any strike. A second decision by the Supreme Court in March 2004 guaranteed the right of industry-wide collective bargaining by workers in the civil construction industry.

¶23. In the area of illegal dismissals for union activity, the main union confederations criticized the Employment Promotion Act, amended in 1995 and 1996, for restricting the rights of workers. Unions complained that the law eliminated the right of dismissed workers to compulsory reinstatement if they prove that employers dismissed them unjustly. In practice, companies sometimes offered financial compensation instead of reinstatement as the legislation allows. Although the law prohibits companies from firing workers solely for involvement in union activities, this provision was not enforced rigidly. In November 2000, the ILO's Committee of Freedom of Association recommended that the Government enforce legislation protecting workers from dismissal on account of membership in a union or participation in union activities. In the first such action by the judiciary, in September 2002 the Constitutional Tribunal ruled that a major company, Telefonica, had to rehire over 400 workers suspected of being fired for their union affiliation.

¶24. In July 2002 Congress passed a law regarding collective dismissals that reinstated workers' rights in this area. During 2003 and 2004 over fourteen thousand former state workers received some form of compensation for dismissals during the Fujimori era, including payments, reinstatement into their old jobs or reassignment to other jobs in the state sector. At the end of 2004, the GOP was considering petitions from other workers who claimed coverage under the 2002 law. The workers were among those deemed to have been fired unjustly during the Fujimori Administration.

¶25. There are no restrictions on the affiliation of labor unions with international bodies. Several major unions and labor confederations belong to international labor organizations such as the ICFTU, the international trade secretariats, and regional bodies.

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¶26. The Constitution recognizes the right of public and private sector workers to organize and bargain collectively; however, it specifies that this right must be exercised in harmony with broader social objectives. Labor regulations provide that workers may form unions on the basis of their occupation, employer affiliation or geographic territory. The law does not prohibit temporary employees from joining a union, but they may not join the same union as permanent workers.

¶27. The Constitution prohibits forced or bonded labor, and there were no reports of forced labor during 2002. The law specifically prohibits forced or bonded labor by children. Forced labor previously was found in the gold mining industry in the Madre de Dios area; however, the changing nature of the industry and government efforts to regulate it have at least partly addressed the problem.

¶28. The Constitution provides that the State promote social and economic progress and occupational education. It states that workers should receive a "just and sufficient" wage to be determined by the Government in consultation with labor and business representatives, as well as "adequate protection against arbitrary dismissal."

¶29. In September 2003, the Government raised the statutory minimum wage from $124 (410 soles) a month to $153 (460 soles). The Ministry of Labor employs approximately 170 labor inspectors.

¶30. The Constitution provides for a 48-hour workweek, a weekly day of rest, and an annual vacation. As of February 2002, a law requires companies to pay overtime to employees who work more than 8 hours, to provide additional compensation for work at night, and to provide a 45-minute meal break to employees during their 8-hour shift.

¶31. While occupational health and safety standards exist,

labor advocates argue that the Government dedicates insufficient resources to enforce existing legislation. The Ministry of Labor receives worker complaints and intervenes in cases. When firms are found to be in violation of the law, the Government sanctions them with fines or, in some cases, closure. In cases of industrial accidents, the level of compensation awarded to the injured employee usually is determined by agreement between the employer and the individual involved. The worker does not need to prove an employer's culpability in order to obtain compensation for work- related injuries. No provisions exist in the law for workers to remove themselves from potentially dangerous work situations without jeopardizing their continued employment.

Economic Conditions

¶32. Over the past decade, Peru has been transformed by market-oriented economic reforms and privatizations that generated many of the conditions for long-term growth. Peru's dynamic economic performance in 2004 contrasted sharply with turmoil elsewhere in South America. The country led the hemisphere with 5.1 percent real growth, driven by investment, domestic demand and exports. GDP in 2004 reached $67.1 billion. Inflation was 3.5 percent, the currency appreciated 5.5 percent over the year and Lima unemployment fell to 8.8 percent. GDP per capita reached $2,440, up significantly from $2,100 in 2001. Fiscal accounts were under control, though the deficit hit 1.1 percent of foreign reserves closed the year at $12.6 billion. External debt was 45.2 percent of GDP. Banking and retail services, mining, manufacturing, agriculture and fishing are key economic sectors.

¶33. Peruvian exports reached $12.5 billion in 2004, with imports of $9.8 billion, producing a trade surplus of $2.7 billion. ATPDEA benefits may propel exports above $13.8 billion in 2005 (provided the Peruvian Government continues to improve the investment climate). Peru's major trading partners are the United States, China, European Union, Japan, Colombia, Brazil and Venezuela. Approximately 29 percent of Peruvian exports are destined for the United States and 20 percent of Peruvian imports come from the United States. Exports include fishmeal, copper, zinc, gold, petroleum, coffee, sugar and textiles and apparel. Imports include machinery, vehicles, processed food, petroleum and steel. Peru belongs to APEC and the WTO and actively participates in FTAA negotiations. Peru's stock of foreign direct investment (FDI) was over $12.9 billion in 2004, with the United States, Spain and Britain the leading investors. FDI is concentrated in privatized sectors such as mining, electricity, telecommunications, and finance.

¶34. Peru's economy is one of the better-managed in Latin America, but challenges remain. Growth should be near 5 percent in 2005, driven by construction, investment, domestic demand and ATPDEA-related exports, with inflation of 2.5 percent. Tax collections are currently 13.4 percent of GDP. The Peruvian Government still faces strong social pressures to reduce high poverty (52 percent) and both unemployment and underemployment (56 percent). Maintaining long-term growth will require improving the investment climate, reducing corruption and completing other reforms.

Market Access

¶35. Tariffs apply to virtually all goods exported from the United States to Peru, although rates have been lowered over the past few years. The government maintains some "temporary" tariff surcharges on agricultural goods in an effort to protect local production, assure fiscal revenues, and promote domestic investment in the sector. Under the current system, a 12 percent tariff applies to 45 percent of the products imported into Peru; four percent and seven percent tariffs apply to about 23 percent and 15 percent of goods, respectively; and 17 percent and 20 percent tariffs apply to most of the rest. A few products, mostly agricultural, are assessed rates (because of the additional "temporary" tariffs) of 5 percent. In March 2002 the tariff rate for most capital goods was reduced from 20 percent and 12 percent to 7 percent. On December 31, 2003, the Ministry of Economy and Finance announced the reduction of tariffs from seven percent to four percent for more than one thousand capital goods, which account for 95 percent of the items previously set at the seven percent level.

¶36. In theory, Peru has a two-tier import tariff system (12 and 20 percent), but in reality it has four levels for agricultural imports: 4, 12, 17 and 25 percent. Additionally, all products are subject to a value added tax (VAT) of 19 percent, although discounts have been granted to local production in some cases. Most products of interest to U.S. agricultural exporters are subject to high import duties. Meats, offal, dairy products, ice cream, processed potatoes, beans, fruit and vegetables (fresh and processed), rice, wheat, confectionery, chocolate, pasta and pastry are

assessed an import duty of 25 percent. Malt, wine and beverages are assessed a 17 percent import duty, while yellow corn, 12 percent. Inputs such as seeds, cattle for reproduction, semen and fertilizers are imported into the country duty free. Peru's bound levels for agricultural products under the WTO are quite high, from 80 percent to 141 percent.

¶37. Imports of "sensitive" products, including corn, rice, sugar and powder milk, plus scores of related products, are subject to a price band. This levy is the difference between the minimum import price and an international reference price plus an adjustment for insurance, freight and other factors. On September 27, 2002, the Government of Peru increased the number of products related to these for categories of "sensitive" products. This new law principally affects U.S. import of dairy products, and in September 2002, import duties on sugar were raised from 40 to 100 percent.

¶38. In the second half of 2002, the five member countries of the Andean Community started to negotiate a common external tariff and initially reached agreement on 62 percent of tariff items. If implemented, this harmonization will have the effect of increasing Peru's tariffs on a number of products, particularly with respect to consumer goods.

¶39. Some non-U.S. exporters to Peru have preferential access to the Peruvian market because of Peru's bilateral tariff reduction agreements. A top U.S. agricultural market access priority is the elimination of the price band system.

WTO Agreements

¶40. Peru was a founding member of the WTO and was a contracting party to the GATT beginning in 1948. The U.S. Government has raised concerns regarding Peru's failure to provide adequate protection for confidential test data as required by WTO TRIPS Article 39.3. The U.S. Government has also pressed for increased cooperation between INDECOPI, the administrative agency that handles patents, and DIGEMID, the health agency that licenses pharmaceutical products.

FTAA Participation

¶41. Peru is an active participant in FTAA negotiations. Peru hosted an FTAA vice ministerial meeting in 2001.

Subsidies or Other Requirements that Distort International Trade

¶42. Almost all non-tariff barriers, including subsidies, import licensing requirements, import prohibitions and quantitative restrictions have been eliminated. However, the following imports are banned for a variety of reasons: several insecticides, fireworks, used clothing, used shoes, used tires, radioactive waste, cars over five years old and trucks over eight years old. Used cars and trucks that are permitted to be imported must pay a 45 percent excise tax - compared to 20 percent for a new car - unless they are refurbished in an industrial center in the south of the country upon entry, in which case they are exempted entirely from the excise tax. Import licenses are required for firearms, munitions and explosives, chemical precursors (since these can be diverted to illegal narcotics production), ammonium nitrate fertilizer, wild plant and animal species, and some radio and communications equipment.

¶43. There are still significant trade barriers imposed by SENASA, the Government of Peru's sanitary regulatory agency, on agricultural products including poultry, live animals, animal genetic material and plant products. The result has been an effective ban on the import of certain agricultural products (for example, paddy rice).

¶44. Imports are also assessed a 19 percent value-added tax on top of any tariffs; domestically-produced goods generally pay the same tax as well. The Government of Peru exempts certain domestic agricultural products from the tax.

Trade Policies that Revitalize the Region

¶45. Peru has been a member of the Andean Community (and its predecessor Andean Pact) since 1969. In 1992, Peru suspended its participation in the Andean Community's integration process because it was reluctant to abandon its two-level tariff structure for the four-tiered common external tariff (CET) favored by the other members. In 1997, Peru agreed to be fully and gradually incorporated into the Community's free trade area by December 2005. At the Andean President's Council meeting on January 31, 2002,

the five member countries of the Andean Community agreed to establish an Andean free trade zone, a common external tariff (CET), and a customs harmonization policy by January ¶2004. Peru received an exception for petroleum and fuels until the end of 2003 and for agricultural products until the end of 2005.

¶46. The CET agreement established a unified tariff schedule that became effective at the end of 2003. In the second half of 2002, the Andean members started to negotiate the CET in order to provide initial offers for the FTAA, and reached agreement on 62 percent of tariff items. Peruvian industry representatives and economists raised concerns that negotiations of a CET on the remaining 38 percent of items could lead to increased tariffs on several consumer products and lower competitiveness. As a result, finalization of negotiations on the CET with Andean neighbors will be difficult to achieve.

Narcotics Cooperation

¶47. On March 1, 2005, Peru received full certification for its cooperation with the United States on counter-narcotics issues under the Foreign Assistance Act. Peru is the second largest cocaine producer in the world and a major exporter of high purity cocaine and cocaine base to markets in South America, Mexico, the United States and Europe.

¶48. About 90 percent of the coca leaf harvested in Peru is used to produce cocaine or its intermediate products. The remainder is used by the local population or for legal medical and commercial consumption in the United States and Europe. Dense coca cultivation is increasing in new areas outside the traditional source zones. With USG support, Peru eradicated almost 10,000 hectares of coca in 2004: alternative development programs supported legal productive activities on almost 20,000 hectares. Opium latex seizures are one indication of an upward trend in poppy cultivation along Peru's Andean ridge. Although the GOP has not been able to measure the size of the opium poppy crop, Peruvian National police eradicated almost 100 hectares of opium poppy in 2004.

¶49. Drug traffickers continue to move coca products out of Peru by land, air, and sea, as well as opium latex and morphine across northern land borders, to U.S., South American and European markets. Mexican trafficking organizations are implicated in using Peru as a primary source of cocaine base and HCl. Maritime smuggling of larger cocaine shipments is the primary method of transporting multi-ton loads of cocaine base and cocaine hydrochloride (HCl). Law enforcement efforts in 2004 focused on maritime and port investigations/interdictions that produced record-breaking cocaine seizures. In 2004, approximately 5.7 metric tons of cocaine base and 7.11 metric tons of cocaine HCl were seized. The USG and GOP have cooperated to improve port security and to address increased maritime smuggling at key Peruvian port locations. Importantly, the fledgling National Port Authority (APN) made very significant advances in promoting the timely attainment of International Ship and Port Security (ISPS) requirements. The USG is continuing to work with the GOP to enhance their capability to identify and inspect suspect cargo shipments.

¶50. In a positive move, Peru's Congress passed a new law in July 2004 to strengthen controls over precursor chemicals used in cocaine processing. This will go into effect in early 2005. Less positive is the increased support by members of Congress for cocalero demands for more permissive coca laws. In July, the U.S. Government designated Fernando Zevallos as a drug kingpin and froze his assets in the United States, including those of his airline Aerocontinente, which has since gone out of business. The United States and Peru brought into force a new extradition treaty in August 2003. In 2004, Peruvian authorities approved requests to extradite two narcotraffickers from Peru to the United States.

¶51. Although Peru is not a major financial haven, money laundering is endemic. Drug organizations transport million-dollar cash proceeds from the U.S., Mexico, Colombia, and other Central/South American countries to Peru. Recently amended anti-money laundering legislation has broadened the definition of money laundering; however, procedural implementation, key currency reporting requirements, and asset forfeiture provisions are still lacking.

Anti-Corruption

¶52. It is illegal in Peru for a public official or employee to accept any type of outside remuneration for the performance of his or her official duties. Peru has ratified both the UN Convention Against Corruption and the Organization of American States' Inter-American Convention

Against Corruption. Peru is not a member of the Organization of Economic Cooperation and Development, and has not signed the OECD Convention on Combating Bribery.

¶53. Peru is one of four nations worldwide participating as a pilot country in the G8 anti-corruption and transparency initiative. The U.S. has worked vigorously to help the Peruvian government prepare a detailed action plan, in coordination with other G8 partners and NGOs, of activities it will pursue under the initiative. The plan envisions activities in six areas: a) citizen information/internet connectivity; b) improving central government fiscal transparency; c) development of GOP procurement systems; d) improving regional/local government transparency and management; e) improvement of transparency of extractive industry revenues; and f) development of asset forfeiture systems and legislation. Total project expenditure under the initiative is expected to be $40 million in 2005-06, with the U.S. already funding some projects.

¶54. Transparency International in 2004 ranked Peru number 74 (out of 145) in its 2004 Corruption Perception Index. (In the same study, Chile was ranked 20, Brazil was number 59, Colombia was ranked 60 and Argentina was ranked 108.) U.S. firms have reported only a small number of problems directly resulting from corruption, especially in government procurement processes and in the judicial sector, but the revelation in late 2000 of a broad and deep corruption ring organized by former presidential advisor Vladimiro Montesinos has heightened awareness of the problem. While anti-corruption efforts have been a stated priority of the Toledo Government, in practice most resources are directed at investigating Fujimori-era corruption. In 2001, President Toledo appointed an anti-corruption "czar" to lead government efforts, but this official resigned in 2002 and has yet to be replaced. Private sector groups have increased efforts to combat corruption through a new cooperative effort called "ProEtica."

Government Procurement

¶55. There is no limitation on foreign participation in government solicitations. In 2000, however, in an effort to support national companies, the government began adding 15 points (on its rating scale of 100) to Peruvian firms bidding on government procurement contracts. In January 2002, the government raised the point preference an additional five points, for a total of 20, until 2005. U.S. pharmaceutical firms have raised concerns about this practice with regard to bidding on the Health Ministry's pharmaceutical purchases. U.S. firms contend that the 20 percent margin is excessive, giving unfair advantage to Peruvian competitors that would otherwise lose these bids on cost or technical grounds. Peru is not a signatory to the WTO Agreement on Government Procurement.

Counter-Terrorism

¶56. Peru is taking action against both international and domestic terrorism. For the second year in a row, President Toledo featured combating terrorism in his state-of-the-nation speech, and he has committed the GOP to increased funding for projects in areas where Sendero Luminoso (SL) still operates on a limited basis. This action is deemed necessary because of growing indications that SL is allying itself with coca producers and narcotics traffickers, and is attempting to rebuild its base through expanding its influence in universities throughout Peru. The new National Defense and Security fund will provide $40 million to the police and military in 2005; some of this money will be used to support counterterrorism interests. The Peruvian Congress has created a national security system designed to improve intergovernmental cooperation and strengthen terrorism prosecutors. The National Police (PNP) Directorate of Counterterrorism works closely with the Embassy in counterterrorism activities. The PNP continues to break up SL camps and capture leaders. Peru aggressively prosecutes terrorist suspects. After the Constitutional Tribunal overturned numerous provisions in Fujimori-era terrorism laws in 2003, President Toledo issued new decree legislation and established the procedures for reviewing and retrying terrorism cases. Around 750 cases are being retried in 2005. The trial was set to begin in the first quarter of 2005 for eight SL members accused of the March 2002 bombing across the street from the U.S. Embassy that killed 10 people. Peru is a party to all 12 of the international conventions and protocols relating to terrorism. Peru, Colombia and Brazil recently signed a border cooperation agreement that addresses terrorism and arms trafficking, along with other issues.

¶57. A June 2002 law passed by Congress allows prosecution of money laundering related to terrorism and also created the Financial Intelligence Unit (FIU) as a means to identify

money-laundering. Peru further strengthened its anti-money laundering legislation in July 2004. The law included anti-terrorist finance activities among the FIU's functions; greatly expanded the FIU's capacity to engage in joint investigations and information-sharing with foreign FIU's; enhanced the FIU's capacity to exchange information and pursue joint cases with other agencies of the Peruvian government; and requires that individuals and entities transporting more than $10,000 in currency or monetary instruments into or out of Peru file reports with Customs. The FIU may have access to these reports upon request. This legislation moves the country closer to fulfilling UNSCR
¶1383.

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